

Federal Trade Commission

§ 321.3

section 511, 123 Stat. 1734 (May 22, 2009). This part applies to persons over which the Federal Trade Commission has jurisdiction under the Federal Trade Commission Act.

§ 321.2 Definitions.

(a) *Commercial communication* means any written or oral statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, onhold script, upsell script, training materials provided to telemarketing firms, program-length commercial (“informational”), the Internet, cellular network, or any other medium. Promotional materials and items and Web pages are included in the term “commercial communication.”

(b) *Consumer* means a natural person to whom a mortgage credit product is offered or extended.

(c) *Credit* means the right to defer payment of debt or to incur debt and defer its payment.

(d) *Dwelling* means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes any of the following if used as a residence: an individual condominium unit, cooperative unit, mobile home, manufactured home, or trailer.

(e) *Mortgage credit product* means any form of credit that is secured by real property or a dwelling and that is offered or extended to a consumer primarily for personal, family, or household purposes.

(f) “Person” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(g) *Term* means any of the fees, costs, obligations, or characteristics of or associated with the product. It also in-

cludes any of the conditions on or related to the availability of the product.

§ 321.3 Prohibited representations.

It is a violation of this part for any person to make any material misrepresentation, expressly or by implication, in any commercial communication, regarding any term of any mortgage credit product, including but not limited to misrepresentations about:

(a) The interest charged for the mortgage credit product, including but not limited to misrepresentations concerning:

(1) The amount of interest that the consumer owes each month that is included in the consumer’s payments, loan amount, or total amount due; or

(2) Whether the difference between the interest owed and the interest paid is added to the total amount due from the consumer;

(b) The annual percentage rate, simple annual rate, periodic rate, or any other rate;

(c) The existence, nature, or amount of fees or costs to the consumer associated with the mortgage credit product, including but not limited to misrepresentations that no fees are charged;

(d) The existence, cost, payment terms, or other terms associated with any additional product or feature that is or may be sold in conjunction with the mortgage credit product, including but not limited to credit insurance or credit disability insurance;

(e) The terms, amounts, payments, or other requirements relating to taxes or insurance associated with the mortgage credit product, including but not limited to misrepresentations about:

(1) Whether separate payment of taxes or insurance is required; or

(2) The extent to which payment for taxes or insurance is included in the loan payments, loan amount, or total amount due from the consumer;

(f) Any prepayment penalty associated with the mortgage credit product, including but not limited to misrepresentations concerning the existence, nature, amount, or terms of such penalty;

(g) The variability of interest, payments, or other terms of the mortgage